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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

SHIN-EI BOEKI, LTD.

v.

SCOTT KAJIYA, MICHAEL W. BINGHAM,
CARY BRIGGS, SIGN LANGUAGE EYEWEAR,
INC. d/b/a SIGN LANGUAGE HABITAT,
and Si SCOOTER WORKS, INC.

CIVIL ACTION

NO. 1:00-cv-02241

(Judge Kane)

FILED
HARRISBURG, PA.

APR 29 2002

MARY E. D'ANDREA, C
Per JP
Deputy Clerk

**MOTION OF PLAINTIFF SHIN-EI BOEKI, LTD.
FOR ENTRY OF DEFAULT PURSUANT TO F.R.CIV.P. 55(a)**

Plaintiff Shin-Ei Boeki, Ltd., by and through its undersigned counsel, hereby moves for entry of default pursuant to F.R.Civ.P. 55(a) against defendants Scott Kajiya ("Kajiya") and Sign Language Eyewear, Inc. d/b/a Sign Language Habitat, and in support of said motion avers the following:

1. By order of this Honorable Court dated February 26, 2002, and filed with the clerk on February 27, 2002, plaintiff's motion for leave to file an amended complaint was granted. A true and correct copy of the subject order is attached hereto as Exhibit "A".
2. A true and correct copy of plaintiff's amended complaint is attached hereto as Exhibit "B". By operation of the amended complaint the party originally sued as Sign Language Habitat is to be henceforth known in this litigation as Sign Language Eyewear, Inc. d/b/a Sign Language Habitat. *Id.*

3. Based upon the aforementioned order, the clerk of court docketed plaintiff's amended complaint on or about February 27, 2002. A true and correct copy of the docket as of March 19, 2002 is attached hereto as Exhibit "C".

4. Pursuant to the Federal Rules of Civil Procedure, and as reflected in the case docket, answers to the amended complaint were due on or before March 12, 2002. (See Exhibit "C").

5. In this civil action, defendant Kajiya is represented by, and has appeared through, attorney Michael J. Hanft.

6. In this civil action, defendant Sign Language Eyewear, Inc. d/b/a Sign Language Habitat is represented by, and has appeared through, attorney Michael J. Hanft.

7. The district court enjoys subject matter jurisdiction over this civil action.

8. The district court enjoys personal jurisdiction over defendants Kajiya and Sign Language Eyewear, Inc. d/b/a Sign Language Habitat.

9. To date, defendant Kajiya has not filed an answer nor any other pleading in response to the amended complaint. (See Exhibit "C"). See Unsworn Declaration of Attorney Jonathan S. Ziss, attached hereto as Exhibit "D".

10. To date, defendant Sign Language Eyewear, Inc. d/b/a Sign Language Habitat has not filed an answer nor any other pleading in response to the amended complaint. *Id.*

11. Rule 55(a) of the Federal Rules of Civil Procedure provides that "upon motion of a party, the clerk of court may enter a default against a party who has failed to plead or otherwise defend."

WHEREFORE, plaintiff Shin-Ei Boeki, Ltd., respectfully seeks entry of default pursuant to F.R.Civ.P. 55(a) against defendants Scott Kajiya and Sign Language Eyewear, Inc. d/b/a Sign

Language Habitat and SiScooterworks, LLC due to the failure of these parties to plead or otherwise defend in response to plaintiff's amended complaint.

SILVERMAN BERNHEIM & VOGEL

By: _____


JONATHAN S. ZISS

PA I.D. 42437

Attorneys for plaintiff
Shin-Ei Boeki, Ltd.

Two Penn Center Plaza
Suite 910
Philadelphia, PA 19102
(215) 569-0000

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CERTIFICATE OF NON-CONCURRENCE

The undersigned counsel for plaintiff (movant herein) hereby certifies that the following parties/counsel have failed to respond to letters dated April 11, 2002 requesting that they state whether they concur/do not concur in the instant motion:

Michael J. Hanft, Esquire
19 Brookwood Avenue
Suite 106
Carlisle, PA 17013-9142

**Attorney for defendants Scott Kajiya
and Sign Language Eyewear, Inc. d/b/a Sign Language Habitat**

S. Cary Briggs
P.O. Box 20043
York, PA 17402

Officer/authorized agent for defendant SiScooterworks, LLC

SILVERMAN BERNHEIM & VOGEL

By: 

JONATHAN S. ZISS
PA I.D. 42437

Attorneys for plaintiff
Shin-Ei Boeki, Ltd.

Two Penn Center Plaza
Suite 910
Philadelphia, PA 19102
(215) 569-0000

Dated: April 24, 2001

CERTIFICATION OF SERVICE

I, Jonathan S. Ziss, Esquire, do hereby certify that a true and correct copy of the within 1) Motion for Entry of Default Pursuant to F.R.Civ.P. 55(a), 2) proposed form of Order; 3) Exhibits; and 4) Brief in Support of Motion for Entry of Default Pursuant to F.R.Civ.P. 55(a) have been duly served upon the parties listed below on this 22nd day of April, 2002, via regular first-class mail, postage prepaid.

Michael J. Hanft, Esquire
19 Brookwood Avenue
Suite 106
Carlisle, PA 17013-9142


**Attorney for defendants Scott Kajiya
and Sign Language Eyewear, Inc. d/b/a Sign Language Habitat**

S. Cary Briggs
P.O. Box 20043
York, PA 17402

Officer/authorized agent for defendant SiScooterworks, LLC

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